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6 | Attorneys for Defendant RASH CURTIS & ASSOCIATES

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

WAI Y. WONG,

| Case No.: 3:19-CV-00534-JCS

Plaintiff,

v.

## RASH CURTIS & ASSOCIATES,

**DEFENDANT RASH CURTIS &  
ASSOCIATES' ANSWER TO PLAINTIFF'S  
COMPLAINT AND DEMAND FOR JURY  
TRIAL**

**Defendant.**

Defendant RASH CURTIS & ASSOCIATES (hereinafter "Defendant") hereby responds to Plaintiff's Complaint as follows:

1. As to paragraph 1, Defendant is not called to admit or deny these allegations. To the extent Plaintiff's allegations imply that Defendant violated the FDCPA or Rosenthal Act, Defendant denies these allegations.

2. As to paragraph 2, Defendant lacks sufficient information to admit or deny whether this court has jurisdiction pursuant to 15 U.S.C. § 1692k(d). Should Plaintiff's federal claims be dismissed or rendered moot, Defendant does not consent to this court's exercise of supplemental jurisdiction over any remaining state law claims.

3. As to paragraph 3, Defendant does not contest venue at this time.

4. As to paragraph 4, Defendant lacks sufficient information to admit or deny these

1 allegations.

2       5. As to paragraph 5, Defendant admits these allegations.

3       6. As to paragraph 6, Defendant admits these allegations.

4       7. As to paragraph 7, Defendant admits these allegations.

5       8. As to paragraph 8, Defendant lacks sufficient information to admit or deny these  
6 allegations.

7       9. As to paragraph 9, Defendant lacks sufficient information to admit or deny these  
8 allegations.

9       10. As to paragraph 10, Defendant lacks sufficient information to admit or deny these  
10 allegations.

11       11. As to paragraph 11, Defendant lacks sufficient information to admit or deny these  
12 allegations.

13       12. As to paragraph 12, Defendant lacks sufficient information to admit or deny these  
14 allegations.

15       13. As to paragraph 13, Defendant lacks sufficient information to admit or deny these  
16 allegations.

17       14. As to paragraph 14, Defendant lacks sufficient information to admit or deny these  
18 allegations.

19       15. As to paragraph 15, Defendant lacks sufficient information to admit or deny these  
20 allegations.

21       16. As to paragraph 16, Defendant lacks sufficient information to admit or deny these  
22 allegations.

23       17. As to paragraph 17, Defendant lacks sufficient information to admit or deny these  
24 allegations.

25       18. As to paragraph 18, Defendant lacks sufficient information to admit or deny these  
26 allegations.

27       19. As to paragraph 19, Defendant lacks sufficient information to admit or deny these  
28 allegations.

1       20. As to paragraph 20, Defendant lacks sufficient information to admit or deny these  
2 allegations.

3       21. As to paragraph 21, Defendant lacks sufficient information to admit or deny these  
4 allegations.

5       22. As to paragraph 22, Defendant lacks sufficient information to admit or deny these  
6 allegations.

7       23. As to paragraph 23, Defendant lacks sufficient information to admit or deny these  
8 allegations.

9       24. As to paragraph 24, Defendant lacks sufficient information to admit or deny these  
10 allegations.

11       25. As to paragraph 25, Defendant lacks sufficient information to admit or deny these  
12 allegations.

13       26. As to paragraph 26, Defendant lacks sufficient information to admit or deny these  
14 allegations.

15       27. As to paragraph 27, Defendant lacks sufficient information to admit or deny these  
16 allegations.

17       28. As to paragraph 28, Defendant repeats and realleges paragraphs 1 through 27 as though  
18 fully set forth herein.

19       29. As to paragraph 29, Defendant lacks sufficient information to admit or deny these  
20 allegations.

21       30. As to paragraph 30, Defendant admits these allegations.

22       31. As to paragraph 31, Defendant admits these allegations.

23       32. As to paragraph 32, Defendant lacks sufficient information to admit or deny these  
24 allegations.

25       33. As to paragraph 33, Defendant is not called to admit or deny these allegations.

26       34. As to paragraph 34, Defendant is not called to admit or deny these allegations.

27       35. As to paragraph 35, Defendant denies these allegations.

28       36. As to paragraph 36, Defendant denies these allegations.

37. As to paragraph 37, Defendant denies these allegations.

38. As to paragraph 38, Defendant is not called to admit or deny these allegations.

39. As to paragraph 39, Defendant is not called to admit or deny these allegations.

40. As to paragraph 40, Defendant denies these allegations.

41. As to paragraph 41, Defendant denies these allegations.

42. As to paragraph 42, Defendant repeats and realleges paragraphs 1 through 41 as though set forth herein.

43. As to paragraph 43, Defendant admits these allegations.

44. As to paragraph 44, Defendant lacks sufficient information to admit or deny these  
ions.

45. As to paragraph 45, Defendant admits these allegations.

46. As to paragraph 46, Defendant is not called to admit or deny these allegations.

47. As to paragraph 47, Defendant denies these allegations.

48. As to paragraph 48, Defendant denies these allegations.

49. Pursuant to Federal Rule of Civil Procedure 8(c), Defendant sets forth the following  
s constituting an avoidance or affirmative defense:

## FIRST AFFIRMATIVE DEFENSE

50. Defendant alleges that Plaintiff's Complaint (and the causes of action alleged therein) state facts sufficient to constitute a cause of action as to the answering Defendant.

## **SECOND AFFIRMATIVE DEFENSE**

51. Defendant alleges that it has no civil liability under the FDCPA or the Rosenthal Act, / violation was unintentional and resulted notwithstanding the maintenance of procedures  
ably adapted to avoid any such error. 15 U.S.C. 1692k(c); Cal. Civ. Code 1788.30(e).

### **THIRD AFFIRMATIVE DEFENSE**

52. To the extent that any of Defendant's alleged conduct constitutes a violation of the  
thal Act, Defendant's liability should be eliminated or reduced because Plaintiff's resulting  
ges, if any exist, were proximally (legally) caused by the comparative negligence, comparative  
and/or intentionally wrongful acts, omissions, or other conduct of Plaintiff or other individuals.

## **FOURTH AFFIRMATIVE DEFENSE**

53. Defendant acted at all times in good faith, and without wrongful intent, or willfulness based upon the belief that its actions were legal, proper, and/or privileged.

## **FIFTH AFFIRMATIVE DEFENSE**

54. Defendant alleges that Plaintiff has not suffered a concrete and particularized injury for the alleged violations of the FDCPA and Rosenthal Act so as to confer Article III or prudential standing upon her.

## **SIXTH AFFIRMATIVE DEFENSE**

55. Defendant alleges it has no civil liability under the FDCPA or the Rosenthal Act because Defendant's alleged communications contained an accurate statement regarding the total amount of Plaintiff's alleged obligation.

### **SEVENTH AFFIRMATIVE DEFENSE**

56. Defendant alleges it has no civil liability under the Rosenthal Act because Plaintiff's alleged obligation is not a "consumer debt" and did not arise from a "consumer credit transaction" as defined by California Civil Code §§ 1788.2(e)-(f).

## **EIGHTH AFFIRMATIVE DEFENSE**

57. Defendant alleges that Plaintiff's Complaint is barred because Defendant's actions were taken in reasonable reliance upon information provided by its client.

## **NINTH AFFIRMATIVE DEFENSE**

58. Defendant presently has insufficient knowledge of information on which to form a belief as to whether Defendant may have additional, as yet unstated, defenses available. Defendant reserves herein the right to assert additional defenses in the event discovery indicates that they would be appropriate.

PRAAYER

**WHEREFORE**, Defendant prays for:

1. That Plaintiff takes nothing from this answering Defendant by this Complaint;
  2. That Defendant be awarded judgment in this action;
  3. For attorneys' fees incurred herein, pursuant to statute;

- 1       4. For costs of suit incurred herein; and
- 2       5. For such other and further relief as the Court deems proper.

3 Dated: March 5, 2019

4 ELLIS LAW GROUP LLP

5 By /s/MARK E. ELLIS

6           Mark E. Ellis  
7           Attorneys for Defendant  
8           RASH CURTIS & ASSOCIATES

9 **DEMAND FOR JURY TRIAL**

10          Defendant RASH CURTIS & ASSOCIATES hereby demands a jury trial in this matter.

11 Dated: March 5, 2019

12 ELLIS LAW GROUP LLP

13 By /s/MARK E. ELLIS

14           Mark E. Ellis  
15           Attorneys for Defendant  
16           RASH CURTIS & ASSOCIATES